IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13683 of 2004

Between:

Mrs.Fathima Bee D/o.Mahaboob Ali
R/o. 17-6-722, Azampura, Hyderabad Rep by her GPA Akbar Sharif
S/o.Yousuf Sharif R/o.10-5-260 Naya Basthi, Ahmed Nagar, Hyderabad.

..... PETITIONER

AND

1 The Revenue Divisional Officer Hyderabad, Nampally Station Road, Hyderabad.
2 The District Collector, Hyderabad District, Nampally Station Road, Hyderabad.
3 The State of Andhra Pradesh, rep by its Secretary, General Administration (Information and Public Relations) Dept., Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the parallel proceedings in LGC 28/91 under the A.P.Land Grabbing (P) Act as illegal, arbitrary and unconstitutional and also unsustainable in the eye of law.

Counsel for the Petitioner:MR.V.RAJAGOPAL REDDY

Counsel for the Respondent No.: GP FOR ASSIGNMENT

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The petitioner is the first respondent in a petition filed by the State of Andhra Pradesh under sub-Section (1) of Section 8 of Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 before the Land Grabbing (Prohibition) Court, Basheerbagh, Hyderabad, which has been registered as LGC No.28 of 1991. The petitioner is seeking a mandamus to declare the proceedings taken in LGC No.28 of 91 as illegal, arbitrary and unconstitutional. The petitioner has alleged that a civil suit has already been filed by her in O.S.No.1203 of 1984 on the file of the I Additional Judge, City Civil Court, Hyderabad in which the State Government is a party and since proceedings arising out of the said civil suit are still pending, the filing of LGC by the State Government is a parallel proceedings and cannot be permitted to continue. In support of his submission, the learned counsel for the petitioner has placed reliance upon a Division Bench judgment of this court in ANAND PARBAT COOP HOUSING SOCIETY LTD vs SPECIAL COURT. In the said decision, it has been held that pendency of proceedings before the Special Court will not prevent a litigant to invoke jurisdiction of this court under Article 226 of the Constitution of India to seek a writ of mandamus or prohibition or any other appropriate writ or order to declare the proceedings pending before the tribunal or the court as illegal and quash initiation of proceedings. The Division Bench found that the State Government in that case was aware that there were previous proceedings before the Special Court which had come to an end and knowing fully well of those proceedings, fresh proceedings were initiated under the Land Grabbing (Prohibition) Act. Therefore, in exercise of its writ jurisdiction, such proceedings were quashed.

Ratio of the decision in the said case cannot be made applicable to the facts of the present case. As per the allegation of the petitioner, the petitioner claiming to be owner and in possession, filed a suit for injunction restraining the defendants from interfering with her possession. Primary relief was sought in the said suit against three individuals alleging that they had support from Government particularly

from Police Department and were causing interference with petitioner's possession. The suit was contested by three defendants and the proceedings culminated in a decree for injunction. Subsequently, appeals were preferred to the lower appellate court and thereafter to this court and a learned single Judge of this court remanded the matter to the III Additional Chief Judge, City Civil Court, Hyderabad for fresh consideration. Against the order of the learned single Judge, LPA No.255 of 2001 was filed and a Division Bench of this court directed the III Additional Chief Judge, City Civil Court to dispose of the appeal and the appeal is pending before the lower appellate court. In the meanwhile, the State Government filed LGC against the petitioner and four other persons in the year 1991 alleging that the petitioner is a land grabber and on that basis order is sought to evict the petitioner and others from the land in question, deliver possession to the State Government and award compensation along with profits.

Proceedings taken up by the State Government before the Special Court are independent proceedings in which what is claimed by the State Government is that petitioner has grabbed the land and it is entitled to a decree of eviction and damages. There is no prohibition in law for the State Government to continue with the said petition and there is no also prohibition for the petitioner to file proper application before the Special court - in case the suit filed by her ultimately would culminate in a decree - relying on the said decree and praying for dismissal of the LGC filed by the State Government qua the petitioner. But it is not a case where the State Government has no jurisdiction to file the LGC without any foundation before a court having no jurisdiction. Proceedings had been taken out by the State Government in the Special Court, for which it has got exclusive jurisdiction under the provisions of the A.P. Land Grabbing (Prohibition) Act, 1982. The petitioner can contest those proceedings in accordance with law and based on her evidence and material, including the order passed by the civil court, if any, in support of her case, request the Special Court that the land grabbing case filed against her be dismissed. But it cannot be said that the proceedings initiated by the State Government before the Special Court are without jurisdiction or would be liable to be thrown out being parallel proceedings. Nothing has been brought to our notice that even the injunction obtained by the petitioner in the suit has attained finality, which would result in dismissal of the land grabbing case.

The writ petition is dismissed.

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DEVINDER GUPTA, CJ

10-8-2004

_____ C.V.RAMULU, J

Tvr

To

1. The Revenue Divisional Officer Hyderabad, Nampally Station Road, Hyderabad.
2. The District Collector, Hyderabad District, Nampally Station Road, Hyderabad.
3. The Secretary, State of Andhra Pradesh, General Administration (Information and Public Relations) Dept., Secretariat Buildings, Hyderabad.
4. 2 CCs to the Govt. Pleader for Assignments, High Court

Buildings,Hyderabad (OUT).

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